

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

KRISTY ZAGULA, et al.,

Plaintiffs,

v.

RICHARD PINELES, et al.,

Defendants

Case No. 2:16-cv-08626-SDW-LDW

JOINT MOTION FOR ENTRY OF A QUALIFIED PROTECTIVE ORDER

The parties request the entry of a Qualified Protective Order to address discovery of data qualifying as Protected Health Information (“PHI”) under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq. (“HIPAA”). In support of this Motion, the parties jointly aver as follows:

1. This is a putative class action concerning the non-payment of medical benefits by an ERISA welfare benefit plan (the “Apple Health Benefit Plan”) established by Apple Health Consortium (“Apple Health”).
2. Plaintiffs served discovery on Apple Health and The Loomis Company (“Loomis”), a former third party administrator for the Apple Health Benefit Plan.
3. The Apple Health Benefit Plan is a “Covered Entity” under HIPAA, 45 C.F.R. § 160.102 and 160.103, and Loomis was a “Business Associate” of the Apple Health Benefit Plan under HIPAA, 45 C.F.R. § 160.102 and 160.103.
4. Plaintiffs’ discovery requests seek the production of documents and data that include PHI of participants and beneficiaries of the Apple Health Benefit Plan.

5. PHI may be disclosed in discovery in a civil action only pursuant to a Qualified Protective Order, 45 C.F.R. § 164.512 (e)(1)(i), or if advance notice is given to the individuals who are the subject of the PHI, 45 C.F.R. § 164.512 (e)(1)(ii) and (iii).

6. Because this case is a putative class action, it is not feasible to comply with the advance notice requirements of § 164.512 (e)(1)(ii) and (iii); therefore, the parties request the entry of a Qualified Protective Order under § 164.512 (e)(1)(i) and (v).

7. Because all parties concur in the relief requested by this Motion, and because the reasons for the relief requested are fully set forth herein, a separate memorandum of law will not be filed in support of this Motion unless requested by the Court.

WHEREFORE, for the reasons set forth above, the parties respectfully request the entry of a Qualified Protective Order in the form of the proposed Order filed with this Motion.

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CERTIFICATE OF SERVICE

I, Julie E. Ravis, certify that on this date, the foregoing Motion and Proposed Order were filed electronically and available for viewing via the Court's ECF system. I further certify that I served a true and correct copy of the foregoing Motion and Proposed Order upon the following counsel of record, by depositing the same in the United States mail, postage prepaid, addressed as follows:

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Dated: April 27, 2017

/s/ Julie E. Ravis
Julie E. Ravis